

**BEFORE THE FEDERAL ELECTION COMMISSION**

In the Matter of )  
 )  
 MUR 6096 )  
 AMERICANS FOR LIMITED )  
 GOVERNMENT RESEARCH ) CASE CLOSURE UNDER THE  
 FOUNDATION ) ENFORCEMENT PRIORITY SYSTEM  
 AMERICANS FOR LIMITED )  
 GOVERNMENT, INC. )  
 HOWARD RICH, CHAIRMAN OF )  
 AMERICANS FOR LIMITED )  
 GOVERNMENT )

**GENERAL COUNSEL'S REPORT**

Under the Enforcement Priority System, matters that are low-rated

are forwarded to the Commission with a recommendation for dismissal. The Commission has determined that pursuing low-rated matters compared to other higher rated matters on the Enforcement docket warrants the exercise of its prosecutorial discretion to dismiss these cases.

The Office of General Counsel scored MUR 6096 as a low-rated matter. In this case, the complainant, the Democratic Senatorial Campaign Committee ("DSCC"), contends that the respondents, Americans for Limited Government Research Foundation, Americans for Limited Government, Inc., and Howard Rich (collectively "respondents") obtained the names and addresses of donors to the Democratic Senatorial Campaign Committee from Federal Election Commission ("Commission") disclosure reports and subsequently mailed harassing letters to these individuals in violation of 2 U.S.C. § 438(a)(4). The mailings stated that the respondents had observed that the recipients of the letters were donors to a left-wing organization, and noted that the respondents had put the recipients in its database so that it

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could publicize the recipients' involvement with these organizations. The letters also referenced possible criminal investigations into voter fraud. The complainant contends that these actions violate the Federal Election Campaign Act, as amended, because obtaining the names and addresses from the Commission's disclosure reports was carried out for the purpose of soliciting contributions or for commercial purposes, in violation of 2 U.S.C. § 438(a)(4) and 11 C.F.R. § 104.15(a).

The respondents maintain that they obtained information about the recipients of the letters from "publicly available sources, including the Internet," and that any recipients who happened to also contribute to the DSCC "would not be an unusual coincidence." The respondents further state that none of "names and addresses to whom the letter was sent were gathered from any FEC reports or from reports filed with the FEC by the DSCC."

In light of the speculative nature of the allegations, and in furtherance of the Commission's priorities and resources, relative to other matters pending on the Enforcement docket, the Office of General Counsel believes that the Commission should exercise its prosecutorial discretion and dismiss the matter. *See Heckler v. Chaney*, 470 U.S. 821 (1985).


### **RECOMMENDATION**

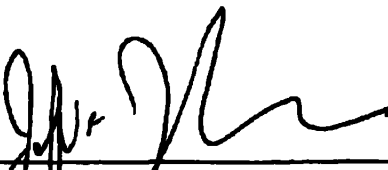
The Office of General Counsel recommends that the Commission dismiss MUR 6096, close the file, and approve the appropriate letters.

Thomasenia P. Duncan  
General Counsel

3/10/09  
Date

BY:

  
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